

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

WALLACE DWAYNE PETERSON, JR.

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:20-cv-216-HSO-JCG

**PEARL RIVER COUNTY, MISSISSIPPI;
DAVID ALLISON, Individually; and
JOHN AND JANE DOES 1-10, Individually**

DEFENDANTS

**RESPONSE IN OPPOSITION TO DAVID ALLISON’S MOTION FOR
JUDGEMENT ON THE PLEADINGS BASED ON QUALIFIED IMMUNITY [D.E. 7]**

COMES NOW, the Plaintiff, WALLACE DWAYNE PETERSON, JR., by and through his counsel, Smith & Holder, PLLC, and files his Response in Opposition to David Allison’s (“Allison”) Motion for Judgment on the Pleadings Based on Qualified Immunity [D.E. 7], stating as follows:

1. That on or about August 23, 2019 around 7:30 a.m., Allison and the Doe Defendants drove to Mr. Peterson’s home. When the Defendant Officers arrived at his residence, Mr. Peterson was asleep on the couch inside his living room only several feet from the front door. Allison and the other officers kicked in or broke in through the front door of the Peterson residence without knocking, announcing their presence, or otherwise affording Mr. Peterson an opportunity to come to the door. Allison and the other officers undertook all of their actions without a search warrant, arrest warrant, or any probable or justifiable cause.

2. That after breaking into Mr. Peterson’s residence, one or more of the Doe Defendants recklessly and intentionally and without any legal or justifiable reason,

violently assaulted Mr. Peterson by striking him in the face with their shotguns or similar firearms issued by the PRCSD. Immediately thereafter, one or more of the Defendant Officers, including Allison, intentionally and without reason slammed Mr. Peterson to the floor, handcuffed him, and forced him outside while other officers ransacked Mr. Peterson's residence. In addition to the multiple assaults, Mr. Peterson was traumatized by being forced to remain outside for approximately three (3) hours - wearing only his underwear - while officers tore apart his residence.

3. That Mr. Peterson was then unlawfully arrested. The baseless and fabricated charges, however, were subsequently dismissed. During the unlawful search immediately following Mr. Peterson's unlawful arrest, Defendant Officers, including Allison, seized a substantial amount of United States currency located in Mr. Peterson's bedroom safe, money which has never been returned to Mr. Peterson.

4. That on July 1, 2020, Mr. Peterson filed his Complaint naming Pearl River County, Mississippi; David Allison, Individually; and John and Jane Does 1-10, Individually, as defendants. [D.E. 1]. Defendants answered the Complaint on August 14, 2020 [D.E. 3], and asserted the defense of qualified immunity.

5. That on September 14, 2020, Allison filed his *Motion for Judgment on the Pleadings Based on Qualified Immunity* along with his memorandum in support, same suggesting that Allison is entitled to judgment as a matter of law [D.E. 7, 8].

6. That as fully set forth in the accompanying Memorandum Brief in Opposition to Allison's motion, Mr. Peterson's Complaint contains sufficient factual matter, accepted as true, to "state a claim to relief that is plausible on its face." *Ashcroft v.*

Iqbal, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

Thus, Allison's motion for judgment on the pleadings should be denied.

RESPECTFULLY SUBMITTED, this the 5th day of October, 2020.

WALLACE DWAYNE PETERSON, JR.

By: /s/ G. MORGAN HOLDER, MSB# 104131

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CERTIFICATE OF SERVICE

I, G. Morgan Holder, of the law firm of Smith & Holder, PLLC, hereby certify that I have this date filed the foregoing with the Clerk of Court using the ECF system which served a copy on all participating counsel of record.

SO CERTIFIED, this the 5th day of October, 2020.

/s/ G. MORGAN HOLDER, MSB# 104131